



## FEDERAL HOUSING FINANCE AGENCY

[No. 2022–N–6]

### Privacy Act of 1974; System of Records

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) gives notice of a new proposed Privacy Act system of records entitled “Fair Lending Oversight Data System” (FHFA-27). The new system will be used to store, maintain, and analyze information for fair lending oversight.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records will go into effect without further notice on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless otherwise revised pursuant to comments received. New routine uses will go into effect on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. FHFA will publish a new notice if the effective date is delayed in order for the Agency to review the comments or if changes are made based on comments received.

**ADDRESSES:** Submit comments to FHFA, identified by “2022-N-6,” using any one of the following methods:

- *Agency Web site:* <https://www.fhfa.gov/open-for-comment-or-input>.

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal*, please also send it by e-mail to FHFA at [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov) to ensure timely receipt by FHFA. Please include “Comments/No. 2022-N-6” in the subject line of the message.

- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2022-N-6, Federal Housing Finance Agency, 400 Seventh Street, SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2022-N-6, Federal Housing Finance Agency, 400 Seventh Street, SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

**FOR FURTHER INFORMATION CONTACT:** James Wylie, Associate Director, [James.Wylie@fhfa.gov](mailto:James.Wylie@fhfa.gov) or (202) 649-3209; Stacy Easter, Privacy Act Officer, [privacy@fhfa.gov](mailto:privacy@fhfa.gov) or (202) 649-3803; or Tasha Cooper, Senior Agency Official for Privacy, [privacy@fhfa.gov](mailto:privacy@fhfa.gov) or (202) 649-3091 (not toll-free numbers), Federal Housing

Finance Agency, 400 Seventh Street, SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

## **SUPPLEMENTARY INFORMATION:**

### **I. COMMENTS**

FHFA seeks public comments on a new system of records and will take all comments into consideration. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing “Comments/No. 2022-N-6,” please reference “FHFA-27, Fair Lending Oversight Data System.”

FHFA will make all comments timely received available for examination by the public through the electronic comment docket for this notice, which is located on the FHFA website at <http://www.fhfa.gov>. All comments received will be posted without change and will include any personal information you provide, such as name, address (mailing and email), telephone numbers, and any other information you provide.

### **II. INTRODUCTION**

This notice informs the public of FHFA’s proposal to establish and maintain a new system of records. This notice satisfies the Privacy Act’s requirement that an agency publish a system of records notice in the *Federal Register* when establishing a new or making a significant change to an agency’s system of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that can be used to exempt records from provisions of the Privacy

Act. Congress also mandates that exempting records from provisions of the Privacy Act requires the head of an agency to publish a determination to exempt a record from the Privacy Act in accordance with the Administrative Procedure Act. Records and information in this system of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of OMB Circular No. A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, (81 FR 94424 (Dec. 23, 2016)), prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

The proposed new system of records described above is set forth in its entirety below.

**SYSTEM NAME AND NUMBER:**

Fair Lending Oversight Data System, FHFA–27.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees.

**SYSTEM MANAGER(S):**

Office of Fair Lending Oversight, Associate Director, (202) 649-3209, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site utilized by employees of FHFA or by individuals assisting such employees.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The system is established and maintained pursuant to 12 U.S.C. 4511, 4514, 4517, 4544, 4561, and section 4562 of the Federal Housing Enterprises Financial Safety and Soundness Act (Safety and Soundness Act) as amended by section 1125 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 4544(c)); 42 U.S.C. 3608(d) of the Fair Housing Act; Executive Order No. 12892; FHFA Order Nos. 2021-OR-FHLMC-2 and 2021-OR-FNMA-2; and the Final Redesigned Uniform Residential Loan Application Status Under Regulation B, 12 CFR 1002.5(b) through (d).

**PURPOSE(S) OF THE SYSTEM:**

The Fair Lending Oversight Data System is a collection of information about borrowers, property, and loan applications. The system is being established by FHFA to store, maintain, and analyze information for fair lending oversight of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The system will be used to analyze compliance with the Fair Housing Act, the Equal Credit Opportunity Act, and the Safety and Soundness Act.

The system will also be used to share information with federal agencies for fair lending and fair housing research, investigation, supervision, and enforcement.

## **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Borrowers of Fannie Mae or Freddie Mac mortgages, applicants for mortgages reported pursuant to the Home Mortgage Disclosure Act, applicants for mortgages that have been reviewed by Fannie Mae and Freddie Mac's automated underwriting system, individuals involved in activities being reviewed for fair lending purposes, appraisers providing appraisals to Fannie Mae or Freddie Mac, and individuals making complaints related to fair lending.

## **CATEGORIES OF RECORDS IN THE SYSTEM:**

Records maintained in the system may include but are not limited to: (1) borrower and loan characteristics such as credit score, closing costs, interest rates, income, race, ethnicity, age, gender, debt ratio, and loan amount; (2) loan transactions including mortgage loan originator identification numbers, origination lender identifiers, and seller identifiers; (3) loan payment history; (4) property characteristics; (5) appraiser name and license number; (6) multifamily property transactions including information about parties involved in the transaction such as name, property address, and transaction underwriting characteristics; and (7) real-estate owner property information such as appraised values, condition, repair status, and property address.

## **RECORD SOURCE CATEGORIES:**

Records in the system are obtained from the Federal Home Loan Banks, United States Department of Housing and Urban Development, Consumer Financial Protection Bureau, FHFA systems, Fannie Mae, and Freddie Mac.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information is collected:

(1) To appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA’s efforts to (i) respond to a suspected or confirmed breach; or (ii) prevent, minimize, or remedy harm caused by such breach.

(2) To a federal agency or federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or; (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature or whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto), the

relevant records in the system of records may be referred, as a routine use, to the appropriate agency (*e.g.*, federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and those matters appeared to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

(6) To members of advisory committees created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(7) To a Congressional office in response to an inquiry from the Congressional office made at the request of and on behalf of the Congressional Offices' constituents included in the system.

(8) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Merit Systems Protection Board, or other federal



agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to fair lending oversight.

(9) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs.

(10) To outside counsel contracted by FHFA, DOJ (including United States Attorney Offices), or other federal agencies conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

- a. FHFA;
- b. Any employee of FHFA in his/her official capacity;
- c. Any employee of FHFA in his/her individual capacity when DOJ or FHFA has agreed to represent the employee; or
- d. The United States, or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(11) To the National Archives and Records Administration or other federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as relevant and necessary to such audit or oversight functions.

(13) To federal agencies for fair lending and fair housing research, investigation, supervision, and enforcement purposes.

(14) To a regulated entity or party during fair lending supervision or investigation when relevant and necessary to: (a) verify information; (b) provide information; or (c) respond to information.

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained in electronic or paper format. Electronic records are stored on FHFA's secured network, FHFA-authorized cloud service providers and FHFA-authorized contractor networks located within the continental United States. Paper records are stored in locked offices, locked file rooms, and locked file cabinets or safes.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records may be retrieved by name, property address, loan identifier or professional licensing identifier.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained and disposed of in accordance with FHFA's Comprehensive Record Schedule, Item 2.2 (N1-543-11-1, as approved on 01/11/2013), and reflects Transmittal No. 31 General Records Schedules Authorities, 04/2020.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records are maintained in controlled access areas. Electronic records are protected by restricted access procedures, including user identifications and passwords. Only FHFA staff (and FHFA contractors assisting such staff) whose official duties

require access can view, administer, and control these records.

**RECORD ACCESS PROCEDURES:**

See “Notification Procedures” Below.

**CONTESTING RECORD PROCEDURES:**

See “Notification Procedures” Below.

**NOTIFICATION PROCEDURES:**

Individuals seeking notification of any records about themselves contained in this system should address their inquiry to the Privacy Act Officer, via email to [privacy@fhfa.gov](mailto:privacy@fhfa.gov) or by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

None.

**Clinton Jones,**  
*General Counsel, Federal Housing Finance Agency.*

[FR Doc. 2022-10798 Filed: 5/19/2022 8:45 am; Publication Date: 5/20/2022]